



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

**Colby Irrevocable Life Estate Trust; Peter & Linda Colby, Trustees
Tax Map 129, Lot 83**

August 25, 2015

**Applicant: Colby Irrevocable Life Estate Trust; Peter & Linda Colby, Trustees
4 Mallard Road
Acton, MA 01720**

Location: 258 Castle Shore Road, Moultonborough, NH (Tax Map 129, Lot 83)

On August 19, 2015, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of the Colby Irrevocable Life Estate Trust; Peter & Linda Colby, Trustees (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III.B (3 & 4), to remove a portion of an existing nonconforming dwelling and reconstruct a residence in the same footprint and same location (16' from the shoreline-to-deck, 32' shoreline-to-wall of residence, 16' property line-to-bulkhead, 18.4' property line-to-wall of residence) where a shoreline setback of 50' is required, and a property line setback of 20' is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 258 Castle Shore Road, Moultonborough, NH (Tax Map 129, Lot 83).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicants were represented by Nicol Roseberry from Ames Associates.
- 5) The existing structure, is a one story, single- family dwelling unit, 16' from the shoreline-to-deck, 32' shoreline-to-wall of residence, 16' property line-to-bulkhead, 18.4' property line-to-wall of residence, and is nonconforming in that regard.

- 6) The applicants are proposing the reconstruction of a portion of an existing nonconforming residence in the same footprint and same location.
- 7) The ZBA has required that the proposed reconstruction comply with the 20' sideline setback, with the applicant's agent agreeing to relocate the south wall of the proposed dwelling.
- 8) No members of the public wished to speak during the Public Hearing.
- 9) Granting the Variance would not be contrary to the public interest as the removal of one section of the dwelling (south section) will allow the reconstruction of that section bringing it up to current building code standards and would not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public.
- 10) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request to reconstruct a portion of the dwelling farther away from the sideline to include best stormwater management practices coincides with the stated purpose of the ordinance with regard to protecting water quality.
- 11) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit by requiring a new dwelling to be constructed entirely within the building envelope given the constraints of the property.
- 12) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, the stormwater management practices would be new and water quality would be positively affected by said construction and it would fit in with the character of the neighborhood.
- 13) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as it would not be economical nor practical to try and maintain the aging existing structure or to move it to another location because the reasons why a new structure could not reasonably be located entirely within the building envelope.

On August 19, 2015, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Hopkins) and none (0) opposed to **GRANT** the request for a shoreline setback variance (MZO Article III. B.4) only, subject to the following conditions: 1) The proposed south section of the dwelling comply with the required 20' sideline setback; 2) The applicant employ best stormwater management practices specifically to withstand the velocity of runoff from a two (2) story dwelling; and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on September 2, 2015, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of (5) in favor (Stephens, Nolin, Zewski, Bickford, St. Peter), none (0) opposed.

The decision made to Approve the variance on August 19, 2015, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 9/8/15